



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

December 20, 2007

REGISTERED MAIL

Lauren Stalmaster
Washington State Department of Fish and Wildlife
600 Capital Way North
Olympia, Washington 98501-1091

RE: Order # 5314 - Water Quality Certification for Washington Department of Fish and Wildlife, Columbia River Access Project / Paterson Boat Launch

Dear Ms Stalmaster:

The request for certification for proposed work in wetlands and adjacent to the Columbia River has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Catherine Reed at (509) 575-2616. Written comments can be sent to her at the Department of Ecology, Central Regional Office or at craj461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Jeff Lewis
Section Manager, Central Regional Office
Shorelands and Environmental Assistance Program

JL:CR;jt071223

Enclosure

cc: Corps of Engineers – Tim Erkel
WDFW – Eric Bartrand
Benton County – Mike Shuttleworth
Penny Keys – Ecology SEA HQ



IN THE MATTER OF GRANTING A)	ORDER # 5314
WATER QUALITY)	Corps Reference No. NWS-2007-153-CRE
CERTIFICATION TO)	For the Columbia River Access Project (aka
Washington State Department of Fish)	Paterson Boat Launch Relocation and
and Wildlife)	Improvements) located in Benton County,
in accordance with 33 U.S.C. 1341)	Washington, near Paterson in section 16,
(FWPCA § 401), RCW 90.48.120, RCW)	Township 4 N Range 16 E.
90.48.260 and Chapter 173-201A WAC)	
)	

TO: Lauren Stalmaster
Washington State Department of Fish and Wildlife
600 Capital Way North
Olympia, Washington 98501-1091

On December 26, 2006 the Washington State Department of Fish and Wildlife submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions Chapter 173-225 WAC on June 7, 2007.

The proposed project entails construction of a concrete public boat launch, a vault toilet, re-grading of an existing access road, and construction of parking and turn-around areas adjacent to the Columbia River. Approximately 720 square feet below the Ordinary High Water Mark will be disturbed. Nine cubic yards of rip-rap will be removed and 16 cubic yards of fill (aggregate concrete and cable) will be placed. Approximately 1 acre of upland area will be disturbed. The new boat launch will be placed about 330 meters west of the current gravel launch. The current gravel launch site will be abandoned in place and the area will be blocked off with barrier rocks. The project is located along the Columbia River south of Paterson in Benton County, Washington, in Section 16, Township 04 N, Range 16 E, WRIA# 31, (Rock Glade Watershed).

The project also includes the improvement of an existing gravel access road by grading and adding more gravel. One hundred feet of the gravel road will be widened by 3 feet.

Proposed mitigation to compensate for temporary construction impacts includes the use of Best Management Practices and replanting of disturbed areas with native vegetation.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. For purposes of this Order, the term "Applicant" shall mean the Washington Department of Fish and Wildlife, and its agents, assignees and contractors.
2. For purposes of this Order, all submittals required by its conditions shall be sent to Ecology's Central Regional Office, Attn: Federal Project Coordinator, 15 West Yakima Avenue, WA 98902. Any submittals shall reference Order No. 5314 and Corps No. NWS-2007-153-CRE.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on December 26, 2006. The Applicant will be out of compliance with this Order and must reapply with an updated application if the information contained in the JARPA is voided by subsequent changes to the project not authorized by this Order.

4. Within 30 days of receipt of an updated JARPA Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
5. This Order does not exempt, and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
7. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
9. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
10. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
11. Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000.00) per violation for each day of continuing noncompliance.

B. Water Quality

1. This Order does not authorize temporary exceedances of the turbidity standard beyond the limits established in WAC 173-201A-200.

2. BEFORE CONSTRUCTION BEGINS within 100 feet of any aquatic resource, the applicant shall provide a brief report to Ecology which describes how the proposed treatment of infrastructure storm water runoff (described in the Biological Evaluation as directing the run-off toward vegetation on site) will protect site aquatic resources and be in compliance with Ecology's Eastern Washington Stormwater Manual.

C. Construction Conditions

1. The Applicant shall comply with all stormwater requirements within the National Pollutant Discharge Elimination System (NPDES) Stormwater General Permit for Construction Activity for this project.
2. All work in and near the water shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control Best Management Practices (BMP's) suitable to prevent exceedances of state water quality standards shall be in place before starting clearing, filling and grading work and shall be maintained throughout construction.
3. The project shall be clearly marked / staked prior to construction. Clearing limits, travel corridors and stockpile sites shall be clearly marked. Sensitive areas and buffers that are to be protected from disturbance shall be marked so as to be clearly visible to equipment operators. Equipment shall enter and operate within the marked clearing limits corridors and stockpile areas.

D. Reporting Requirements

1. An "as built" report shall be prepared after construction **if there were any changes** from the final plan as submitted to Ecology. The "as-built" report shall include but not be limited to:
 - final site plan showing site topography (both site plan view and typical sections) and clearly indicating the storm water treatment and riparian revegetation areas;
 - photographs of the area taken from permanent photo points which will be designated on the site plan;
 - the installed planting scheme showing densities, sizes, and approximate locations of plants as well as plant sources and time of planting; and,
 - a text description of the changes to the plan that occurred during construction.

Two (2) copies of the "as-built" report and drawings shall be sent to Ecology's Central Regional Office Attn: Federal Permit Coordinator at 15 West Yakima Avenue, WA 98902, within 60 days of completing construction and planting, and in no case later than December 31 of the year within which construction occurred.

E. Timing Requirements

1. This Order is valid until May 22, 2009.

F. Notification Requirements

1. The Applicant shall provide written notification (FAX, e-mail or mail) to Ecology's Central Regional Office Federal Permit Coordinator in writing at least three (3) days prior to the start of construction at the project and mitigation site.
2. The Applicant shall provide written notification to Ecology's Central Regional Office Federal Permit Coordinator in writing within fourteen (14) days after completion of construction.

NOTE: These notifications shall include the Applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

G. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, including wetlands, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's Central Regional Office Spill Response Office at **(509) 575-2490** of the nature of the problem, any actions taken to correct the problem, and any proposed changes in operations to prevent further problems.

3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology's Central Regional Spill Response Office at **(509) 575-2490**.

H. Appeal Process:

You have a right to appeal this Order. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the "date of receipt" of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the "date of receipt" of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). "Date of receipt" is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

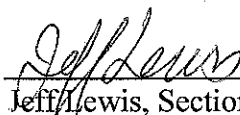
Department of Ecology
Central Regional Office
Attn: Catherine D. Reed
15 West Yakima Avenue, Suite 200
Yakima, WA 98902

For additional information visit the Environmental Hearings Office Website:
<http://www.cho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43 21B.320. These procedures are consistent with Ch. 43 21B RCW.

Dated 20 December, 2007 at Yakima, Washington.



Jeff Lewis, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington

ATTACHMENT A

Washington State Department of Fish and Wildlife Water Quality Certification Order #5314

Statement of Understanding of Water Quality Certification Conditions

I have read and understand the conditions of Order #5314 Section 401 Water Quality Certification for the Columbia River Access Project (aka Paterson Boat Launch Relocation and Improvements Project). I have also read and understand all permits, plans, documents, and approvals associated with the Columbia River Access Project (aka Paterson Boat Launch Relocation and Improvements Project) referenced in this order.

Signature

Date

Title

Company